



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 01253-00
25 July 2000

EO1 [REDACTED] ISN [REDACTED]
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 22 March 2000, a copy of which is attached, and your letter dated 4 July 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. In reply to paragraph 1 of your letter dated 4 July 2000, the Board noted the advisory opinion specifically mentions that the correction NAVPERS 1070/607 states "reduction in rate suspended." In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

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MILLINGTON TN 38055-0000

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PERS-832C

22 Mar 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS (BCNR)

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: EO1 [REDACTED] II, USN, [REDACTED]

Ref: (a) MILPERSMAN 5040110
(b) MCM Part V, Paragraph 6.d.

Encl: (1) BCNR File 01253-00
(2) Petitioner's Microfiche Record

1. The petition and naval records of subject petitioner have been reviewed relative to his request for removal of derogatory material.

2. The review reveals that the petitioner was found guilty of violation UCMJ Articles 107 (false official statement) and 115 (malingering) at NJP dated 6 Sep 91. The 9 Oct 91 correction NAVPERS 1070/607 states the reduction in rate was suspended. Documentation supporting the NJP and the suspension of reduction in rate should remain in the record. The maintenance of these documents is essential to depict the petitioner's character and background, and in conjunction with any other unsatisfactory conduct, to serve as a possible consideration for future administrative action. A presumption of regularity attaches to official records, and the burden of proof is on the petitioner to show documentary evidence that an error has occurred or an injustice suffered. There is no evidence to support that the NJP was set aside in its entirety as per references (a) and (b). Therefore, favorable action on this petition is not recommended.

[REDACTED]

Technical Advisor to the
Head, Enlisted Performance
Branch (PERS-832)